

SERVICE DATE

MAY 9 1980

INTERSTATE COMMERCE COMMISSION

CERTIFICATE AND DECISION

Docket No. AB-6 (Sub-No. 51F)

BURLINGTON NORTHERN INC. ABANDONMENT AND DISCONTINUANCE OF SERVICE  
IN MINERAL COUNTY, MT, AND SHOSHONE COUNTY, ID

Decided: May 5, 1980

I have considered the record in this proceeding, including the administratively final decision served July 30, 1979, in which the Commission, Review Board Number 5, authorized the abandonment by the Burlington Northern Inc. of its line of railroad extending from milepost 19.57 near Haugan, MT, to milepost 49.07 near Mullan, ID, and discontinuance of service over its line extending from milepost 49.07 near Mullan to milepost 58.61 near Wallace, ID, a total distance of 39.04 miles. That decision also provided that any person, including a government entity would be given the opportunity to make an offer of financial assistance to the carrier applicant, within 15 days of the date of publication of the Commission's findings in the Federal Register by filing with the Commission an offer containing the evidence specified in Procedures for Pending Rail Abandonment Cases, 41 Fed. Reg. 13691 (1976).

The notice of findings was published in the Federal Register on March 20, 1980. The time for the filing of offers of financial assistance has expired without a bona fide offer. In the absence of such an offer, an appropriate certificate and decision should be entered.

It is certified that the present and future public convenience and necessity permit abandonment of the above-described line, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co. - Abandonment Goshen, 360 I.C.C. 91 (1979); provided (a) that the Oregon-Washington Railroad & Navigation Company (OW) acquire and Union Pacific Railroad Company (UP) operate that portion of the line extending between Mullan and Wallace, ID, as authorized in Finance Docket No. 28759, and (b) that BN shall not sell, lease, exchange, or otherwise dispose of the right-of-way underlying the track, nor remove any of the railroad structure, except rails and ties, between Haugan and Mullan for a period of 120 days from March 20, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way.

It is ordered:

1. This certificate and decision shall be effective 120 days from the decided date. Tariffs applicable to the line permitted to be abandoned may be canceled upon not less than 10 days' notice to this Commission and to the general public by filing and posting in the manner prescribed by the Commission. When filing schedules cancelling tariffs applicable to said line, the applicant shall, in such schedules, refer to this certificate and decision by date and docket number.

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2. If the authority granted by this certificate and decision is exercised, applicant shall submit two copies of the journal entries showing the retirement of the line from service, and shall advise this Commission in writing, immediately after abandonment of the line of railroad, of the date on which the abandonment actually took place.

3. If the authority granted in this certificate and decision is not exercised within one year from its effective date, it shall be of no further force and effect.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

AGATHA L. MERGENOVICH,  
Secretary.

(SEAL)